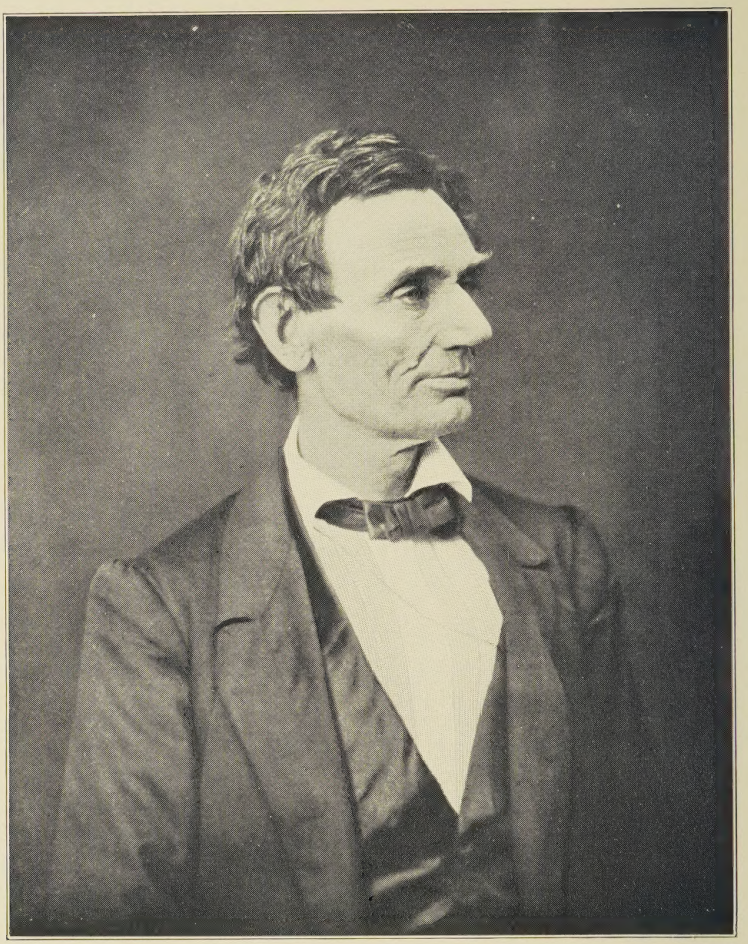
Lincoln the Litigant



ABRAHAM LINCOLN
JUNE, 1860

LINCOLN
THE LITIGANT

BY

WILLIAM H. TOWNSEND

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With an Introduction by

WILLIAM E. BARTON

With Illustrations

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Illustrations

Introduction

TWO good and comprehensive books by lawyers of ability have gathered and recorded much information concerning Lincoln's experience as a lawyer, and all the various biographies of Lincoln devote space to this aspect of his career. It remained for Mr. Townsend to discover and give to the world accurate and apparently complete knowledge of Lincoln's experience, not as counsel for other men, but as plaintiff or defendant in the courts. His book "Abraham Lincoln, Defendant," issued in a limited edition a few months ago, was welcomed at once as a distinct addition to Lincoln literature. It will soon be a scarce and eagerly sought item. It will be sought for by many who will be unable to obtain it. Fortunately, the essential facts contained in that little volume are comprehensively stated in this one, and with much added information.

Introduction

Mr. Townsend has done what no one has attempted hitherto. He has caused the records of the courts in which Lincoln did business to be searched for all cases in which Lincoln appeared, not as counsel, but as a party to the suit. Considering Lincoln's habitual attitude of conciliation, and his well-known advice to discourage litigation, this list is a remarkably long one. No one has known—perhaps it would be safe to say that no one hitherto has suspected—that Lincoln had a direct interest in so large a number of suits.

There is no question of the value of these discoveries. For the historian, this little book constitutes an important new source. For the general reader, it opens a new approach to a knowledge of the character of Lincoln. To all, it is an interesting narrative, and essential to a correct knowledge of the subject.

I am especially happy in the publication of this volume, because I know how well the work has been done. Mr. Townsend is a lawyer of trained mind, and has brought to his task

an unusual equipment. He has spared no labor to learn and record the truth and the whole truth and nothing but the truth. I cannot see that he has left very much to be said on the subject which he treats. His work must be reckoned with as that of a workman who has no need to be ashamed. Writers on Lincoln as a lawyer will henceforth have to draw upon this book for no inconsiderable portion of their material. I hope to be one of the first to make depredations upon it.

Mr. Townsend has told his story with a charming directness that combines clarity of statement with rare literary felicity. He has given us a book which has a right to claim for itself a place in literature. It is my sincere hope that we are to see other and important volumes from his facile pen. I wish for this volume the success it well deserves.

William E. Barton

Oak Park, Illinois
January, 1925

Lincoln the Litigant

Lincoln the Litigant

MUCH has been written about Abraham Lincoln as a lawyer. How he tried cases; his power before a jury; his skill in the interrogation of witnesses; his high professional integrity—are familiar to everybody. It is rather curious, therefore, that the litigation which undoubtedly concerned Lincoln most, and which, to use his own words, "harassed" his "feelings a good deal," has almost entirely escaped notice.

Until the court records of the old Eighth Illinois Judicial Circuit which Lincoln rode were recently searched by the author, and the papers of the firm of Lincoln and Herndon examined, little or nothing was known of but few of those cases in which Lincoln himself was either plaintiff or defendant. This investigation reveals the remarkable fact that, although a man of rugged, unswerving honesty and a lawyer of the finest professional ideals,

Lincoln the Litigant

Abraham Lincoln was a party to more lawsuits than was the average lawyer or citizen even of his own rather litigious day.

Yet, no other lawyer on the Circuit was so modest in his charges as Lincoln. His fees were notoriously inadequate for the services rendered, but the remonstrance of his friends and associates at the bar that he was "ruining the profession" availed nothing. This is strikingly illustrated by a letter that he wrote to his client, George P. Floyd, for whom Lincoln had obtained a lease on a valuable piece of hotel property in Quincy, Illinois, and, as no fee had been fixed, Floyd sent his lawyer twenty-five dollars. In a few days he received the following reply:

SPRINGFIELD, ILLINOIS
February 21, 1856

GEO. P. FLOYD,
Quincy, Ill.

DEAR SIR:

I have just received yours of 16th, with check on Flagg & Savage for twenty five dol-

lars. You must think I am a high-priced man. You are too liberal with your money.

Fifteen dollars is enough for the job. I send you a receipt for fifteen dollars and return to you a ten dollar bill.

Yours truly

A. Lincoln

However, it is not true, as has been claimed, that Lincoln was indifferent to compensation for his legal services. His attitude in this respect is succinctly stated in his "Notes for Law Lecture," in which he said: "The matter of fees is important, far beyond the mere question of bread and butter involved. Properly attended to, fuller justice is done both lawyer and client. An exorbitant fee should never be claimed. As a general rule never take your whole fee in advance, nor more than a small retainer. Settle the amount of fee and take a note in advance. Then you will feel that you are working for something and you are sure to do your work faithfully and well." And this was the practice

Lincoln followed, although it occasionally got him into trouble, as will be seen later. He accepted a small retainer, the old office docket showing one as low as $2.80, and took a note for the balance due upon final conclusion of the case.

When that case was finished, however, Lincoln was not slow to undertake collection, as is shown by the following characteristic letter:

SPRINGFIELD, ILL.
July 4, 1851

ANDREW MCCALLEN,

DEAR SIR:

I have news from Ottawa that we *win* our Gallatin and Saline county case. As the Dutch justice said when he married folks, "Now vere ish my hundred tollars."

Yours truly

A. LINCOLN

Biographers have stated that Lincoln never sued for a fee, except in the notable instance of the Illinois Central Railroad case. But the

files of the Eighth Circuit tell a different story. They show that Lincoln not only demanded equity and justice for others, but insisted on a square deal for himself as well. Having made a reasonable charge and having rendered a full measure of services for it, he expected the balance of his fee to be paid. The execution of the note was no idle formality. He did his part and saw to it that the client did likewise, even if the aid of the courts had to be invoked.

The first suit ever brought by Lincoln for a fee is styled "Abraham Lincoln vs. Spencer Turner and William Turner" and was filed in the Dewitt Circuit Court, Clinton, Illinois, at the October term, 1841. Recovery was sought on a note executed by defendants May 30, 1840, payable to "A. Lincoln" ninety days after date. A plea that Spencer Turner was under legal age at the time he signed the note was made, but on Thursday, October 7, 1841, judgment was rendered for the plaintiff in the sum of $200 with $13.50 damages and costs.

No process had been obtained at this time on the other defendant, but Lincoln's persistency is indicated by the record which shows that almost five years later, on Thursday, April 30, 1846, a judgment was entered against William Turner also.

The next suit was filed by the firm of Logan and Lincoln against James D. Smith, executor under the will of William Trailor, deceased, in the Sangamon Circuit Court, Springfield, Illinois, at the July Term, 1845. The declaration is in Lincoln's handwriting and alleges defendant's failure to pay a fee of $100 "for defending said Trailor against a charge of murdering one Fisher." On Wednesday, November 19, 1845, plaintiff obtained judgment for the full amount and costs.

This fee was earned in the most singular case Lincoln ever tried — one that is still unparalleled in the criminal annals of Central Illinois. Three brothers — William, Henry, and Archibald Trailor — natives of Kentucky, had moved to Illinois in 1829, William settling in Warren

County, more than one hundred miles northwest of Springfield; Henry at Clary's Grove, twenty miles from Springfield; and Archibald taking up his residence in Springfield. With William Trailor there lived, at the time of this incident, an eccentric character by the name of Archibald Fisher, a school-teacher and Jack-of-all-trades, who by frugality and thrift had accumulated several hundred dollars, which he refused to deposit in a bank.

One morning, the last of May, 1841, William Trailor and Fisher started together in a one-horse buggy for Springfield, where Fisher intended to enter some land. They reached the home of Henry Trailor at Clary's Grove on Sunday evening, and on the next day, June 1st, about noon, the two brothers and Fisher arrived in Springfield. They stopped at Archibald Trailor's boarding-house, and after dinner the three brothers and Fisher started out for a stroll. About supper time the Trailors returned to the boarding-house without their companion and explained that, as they were walking

along a footpath on the outskirts of town, Fisher had dropped behind and had not been seen again.

That evening an effort was made to locate the missing man, without success, and, on the following day, a thorough search was begun for him by his Springfield friends. In the midst of the investigation, William Trailor hitched up his rig and announced his intention of going home, but was persuaded by his brother Archibald, to remain until the next day, at which time, nothing having been heard of Fisher, William and Henry left the city for their homes.

Some ten days later, on June 12th, the postmaster of Springfield received a letter from the postmaster at Greenbrush, Warren County, stating that William Trailor had returned home and was circulating a report that Fisher was dead and had left him fifteen hundred dollars. This news threw the little town into the wildest excitement and, the immediate arrest of the Trailors being demanded, officers

were dispatched in haste to arrest William and Henry.

On Monday, the 15th, Henry was brought into Springfield, lodged in jail, and vigorously and repeatedly interrogated by the Mayor and Josiah Lamborn, the Attorney-General. The prisoner, however, protested his innocence and stoutly denied any knowledge of Fisher's whereabouts, but the officials reminded him that the evidence against him and his two brothers was overwhelming, that they would certainly be hanged, and that the only chance to save his own life was to become a witness for the State.

Finally, on Wednesday, Henry weakened under the tremendous pressure and, although maintaining his own innocence, confessed that his brothers, William and Archibald, had murdered Fisher by knocking him in the head with a club; that they had temporarily concealed the body in a thicket; and that the first he had known of the crime was when they had sought his assistance in disposing of the

body. He then related in minute detail what had occurred, the substance of his story being that, when he and William had departed, ostensibly for home, they had not taken the direct road, but had entered the woods northwest of the town, where Archibald had met them; that, on approaching the spot where the body was concealed, he was placed as a sentinel, while his brothers took the body from the thicket of underbrush and drove with it in the buggy toward Hickox's mill-pond, a short distance away; and that they returned after a while saying that everything was now safe. Archibald had then gone back to town and he and William had proceeded homeward.

On the day of this confession, the Sheriff returned with William, and Archibald was also taken into custody. Heavily manacled, the three brothers were lodged in jail and a strong guard put over them to prevent escape or mob violence.

The story related by Henry Trailor aroused the most intense public indignation, and the

murder became almost the sole topic of conversation. Business was practically suspended as searching parties and amateur detectives scoured the woods and byways, collecting every fragment of circumstantial evidence and chopping down Hickox's mill-dam, over the owner's earnest protest, in an effort to locate the remains of the murdered Fisher.

It was generally conceded that only a speedy trial and swift punishment could allay the clamor of the populace for the blood of the prisoners and avert the disgrace of a lynching. So, on June 18th, William Trailor was put upon his examining trial. The courtroom was packed to capacity with excited citizens as the case was called and the witnesses sworn. The prosecution was in charge of Josiah Lamborn, Attorney-General of the State, whose vigor and skill had wrung the confession from the unwilling lips of Henry Trailor, as the General's friends pointed out, and who did not propose that this achievement should be forgotten when again he sought political office. The de-

fendant sat between his counsel, Stephen T. Logan, leader of the Springfield Bar, with his shrewd face and heavy shock of hair turning gray, and Abraham Lincoln, Judge Logan's new law partner, tall, angular, and rugged of features.

Henry Trailor, the first witness introduced for the State, reiterated his confession and withstood unfalteringly a rigid cross-examination.

A highly respected lady, well acquainted with the Trailors, next took the stand and testified that, on the Monday afternoon of Fisher's disappearance, she saw Archibald and William Trailor, with another man answering the description of Fisher, enter the timber northwest of the town, and after a while she had seen the Trailors leave the woods alone. By other witnesses it was proved that, in the thicket near where the accused had entered the timber with the missing man, signs of a struggle were evident and a club had been found there with hair on it which a doctor, after a long, scientific

examination, pronounced human whiskers such as Fisher wore. Through the brush and tall weeds a trail was also visible, as though some heavy object had been dragged from this spot to where buggy tracks could be plainly seen in the soft earth. These tracks led to the pond at Hickox's Mill, and indicated that a vehicle had been driven into the water, turned round, and had gone back in the direction from whence it had come. It was further proved that, since Fisher's disappearance, Archibald Trailor had passed an unusual number of gold coins.

When the distinguished prosecutor, with an air of confidence and finality, rested the side of the State, it seemed impossible that any real defense could be interposed. With the direct and positive testimony of Henry Trailor, corroborated by an overwhelming array of circumstantial evidence, the guilt of the man on trial seemed established beyond a reasonable doubt.

Yet, in the face of this situation, defendant's

counsel appeared serene, and, in the midst of a breathless silence, Lincoln slowly arose and stated that the defense desired to introduce only a single witness. He then called to the stand a white-haired old gentleman, whom many in the audience recognized as Doctor Gilmore, a physician from Warren County and widely known as a man of high character and unimpeachable veracity. The Doctor stated that he had known Archibald Fisher for many years, and that on two occasions—one when he was building a barn and the other while he was being treated for some chronic disease—Fisher had lived in his home. He said that, several years previous, Fisher had been seriously injured in the head by the bursting of a gun, and, since that time, had been subject to occasional aberrations of mind; that a few days earlier in the week he had returned from making a professional call and had found Fisher at his home, in bed and quite indisposed. Fisher told him that he had suffered a complete lapse of memory in Springfield, and, when he had

recovered his senses, he was near Peoria, and, being closer to Warren County than to Springfield, he had started home; but, feeling badly, had stopped at Doctor Gilmore's house for treatment. The Doctor said that Fisher was now at his home, where he would remain until he recovered sufficiently to travel.

The sensation produced by Doctor Gilmore's testimony and the dramatic turn of the case cannot be described. Of course, the defendants were promptly released from custody, but the reaction of the spectators was so sudden and tremendous against the Attorney-General and the Mayor, who, as was apparent now, had intimidated the terror-stricken Henry into making a false confession which had almost resulted in judicial murder, that it was necessary for Judge Logan to mount a table and calm the crowd by an appeal for law and order.

In a few days the officers, who had been sent to Warren County to verify Doctor Gilmore's story, returned with Fisher himself,

who, apparently restored to health and much surprised at all the furor, repeated the facts of his strange disappearance, as he had related them to his physician, which forever exonerated the Trailors. About this time it was also discovered that the "whiskers" on the club were cow hairs, and that the "signs of a struggle" in the thicket was where schoolchildren had attempted to hang a rope swing.

On June 19, 1841, the day after the trial, Lincoln sat down and wrote his intimate friend and companion, Joshua Speed, at Louisville, Kentucky, a long letter about this case, in which he described the effect of Gilmore's testimony on the leaders of the investigation as follows:

"When the doctor's story was first made public, it was amusing to scan and contemplate the countenances and hear the remarks of those who had been actively in search of the dead body; some looked quizzical, some melancholy, and some furiously angry. Porter, who had been very active, swore he always knew the

man was not dead, and that he had not stirred an inch to hunt for him; Langford, who had taken the lead in cutting down Hickox's mill-dam, and wanted to hang Hickox for objecting, looked most awfully woe-begone; he seemed the 'victim of unrequited affection,' as was represented in the comic almanacs we used to laugh over; and Hart, the little drayman that hauled Molly home once, said it was too *damned* bad to have so much trouble and no hanging after all."

At the same term of the Sangamon Circuit Court, the case of "Stephen T. Logan and Abraham Lincoln, late doing business under the style and firm name of Logan and Lincoln," against John Atchison was commenced by filing a declaration written by Lincoln for the recovery of an attorney's fee of $200. On Tuesday, July 29, 1845, a jury returned a verdict for Lincoln and his partner, but only for $100 and costs.

At the March Term, 1850, of the same

court, Lincoln filed suit, under the firm name of Lincoln and Herndon, against John B. Moffett on an account which, written by the senior partner, appears as follows:

To attending suit with Lewis and others, Sangamon Circuit Court . .	$100.00
To attending suit with Lewis et al in Supreme Court	50.00
	$150.00

Lincoln apparently compromised this suit for half of the account, as on Wednesday, March 20, 1850, an agreed judgment was entered against the defendant for seventy-five dollars and costs.

About this time Lincoln defended one Samuel Short in the Christian Circuit Court on a charge of shooting and wounding with intent to kill. Short was a farmer living near Taylorville, and had fired with a shotgun on a party of boys who were raiding his melon patch, seriously wounding one of them. He was indicted and tried for this offense, but successfully defended by the tall, lank lawyer from Springfield. Short showed his appreciation by

refusing to pay his attorney fee, and Lincoln promptly sued him in the court of a Justice of the Peace.

In August, 1854, at Springfield, Lincoln sued Samuel Sidner on a note for $500. Evidently he had taken the precaution in this instance of securing the note by a lien on real estate, for he prayed that foreclosure be had on "the east half of Lot Four in Block 1 of the old Town plat of the late Town, now City of Springfield." Judgment was obtained on November 21, 1854, for the principal and interest amounting to $594.80, and on February 5, 1855, Lincoln purchased the property at the court sale.

The last suit in which Lincoln appeared as plaintiff grew out of the most important case he ever handled. By an Act of the Legislature, the State of Illinois had exempted the Illinois Central Railroad from an ad-valorem tax on its property and franchise, assessing its taxes on an earning percentage basis. Various counties in the State became dissatisfied with this

method, since they obtained no revenue from it, and began to consider the advisability of testing the legality of the Act. While the matter was under discussion, Lincoln wrote the following letter:

BLOOMINGTON, *Sept.* 12, 1853

T. R. WEBBER, ESQ.

MY DEAR SIR —

On my arrival here to Court, I find that McLean county has assessed the land and other property of the Central Railroad for the purpose of County taxation. An effort is about to be made to get the question of the right to so tax the Co. before the court and ultimately before the Supreme Court, and the Co. are offering to engage me for them. As this will be the same question I have had under consideration for you, I am somewhat trammelled by what has passed between you and me, feeling that you have the first right to my services, if you choose to secure me a fee something near such as I can get from the other side.

The question in its magnitude to the Co. on the one hand and the counties in which the Co. has land on the other is the largest law question that can now be got up in the State, and therefore in justice to myself, I can not afford, if I can help it, to miss a fee altogether. If you choose to release me, say so by return mail, and there an end. If you wish to retain me, you had better get authority from your court, come directly over in the stage and make common cause with this county.

Very truly your friend

A. Lincoln

After giving the taxing authorities reasonable time in which to secure his services, Lincoln wrote to Mason Brayman, counsel for the railroad:

Pekin, *Oct.* 3, 1853

Dear Sir:

Neither the County of McLean nor anyone on its behalf has yet made any engage-

ment with me in relation to its suit with the Illinois Central Railroad on the subject of taxation. I am now free to make an engagement for the road, and if you think of it you may "count me in." Please write me on receipt of this. I shall be here at least ten days.

Yours truly

A. LINCOLN

These letters show that Lincoln was not the careless, easy-going lawyer that he has sometimes been pictured. Here was an active, vigorous attorney keeping a close eye on his practice. He could not afford to miss a fee and said so frankly. And he was quite willing to accept employment on either side. With characteristic fairness, he was careful, however, to give the first chance to those whom he felt had the prior claim to his services.

A short time thereafter a suit was filed in the McLean Circuit Court styled "Illinois Central Railroad Co. vs. County of McLean," seeking to enjoin the collection of the tax

imposed by the county. Lincoln represented the railroad company and S. T. Logan and John T. Stuart, his former law partners, appeared for the county. After a bitter contest, the Circuit Court decided that the company must pay an ad-valorem tax in every county through which the railroad passed. This meant bankruptcy, and Lincoln appealed to the Supreme Court of Illinois in a last effort to save his client. Finally, after he had argued the case twice, the Supreme Court at the December Term, 1855 (17 Illinois Supreme Court Reports, page 291), decided for the railroad and Lincoln won a complete victory.

The events which followed the winning of this suit have long been matters of controversy. Herndon, then Lincoln's law partner, says that Lincoln presented his bill of $2000 for legal services, but that the company rejected it with the statement that this amount was "as much as Daniel Webster himself would have charged," and that Lincoln, "stung by the rebuff," increased the fee to $5000 on advice of the most

prominent members of the Bar who knew the value of his services.

On the contrary, the railroad, in a sumptuously bound brochure which it published in 1906, claims that Lincoln was informed that "the payment of so large a fee to a western lawyer without protest would embarrass the general counsel with the Board of Directors in New York," but that, if suit was brought, the company would "promptly pay the amount of the judgment." Apparently, according to its own admission, its attorney fees were controlled more by geography than achievement.

However this may be, the record shows that Lincoln, having waited more than fifteen months for his well-earned compensation, filed suit against the Illinois Central Railroad Company in the McLean Circuit Court at Bloomington at the April Term, 1857, seeking recovery of his fee of $5000. When the case was called on Thursday morning, June 18, 1857, and no one appeared for the defendant, Lincoln took a default judgment for the full

amount. That afternoon, John M. Douglass, a solicitor for the company, arrived, and was much chagrined to find that judgment had already been rendered against his client. Going to Lincoln, he told him the predicament in which he was placed by having been late and appealed to him for a retrial. To this Lincoln generously agreed, the default judgment was set aside, and the case again set for trial.

On Tuesday, June 23, 1857, the case was called and a jury empaneled. The proceedings on this occasion seem to have been very informal. Lincoln read the depositions of several leading lawyers, including O. H. Browning and Archibald Williams, of Quincy; Norman B. Judd, Isaac N. Arnold, and Grant Goodrich, of Chicago; and Stephen T. Logan, of Springfield, who had opposed Lincoln in the tax suit. A local lawyer was also called as a witness.

Mr. Charles L. Capen, of Bloomington, former President of the Illinois Bar Association and one of the oldest lawyers in his State,

is probably the only living person acquainted with the incidents of this trial. In a letter to the author, dated September 3, 1923, Mr. Capen says: "The company did not ask cross questions, had no witnesses, said nothing at the trial, and made no speech. Mr. Lincoln spoke a few minutes." He then relates that, as Mr. Lincoln "got up to speak to the jury, a button on his trousers gave way. Saying, 'Wait a minute 'til I fix my galluses,' he took out a knife, whittled a stick, and used that in place of a button." Before the case was over, Mr. Lincoln recalled that he had already received two hundred dollars as a retainer, and asked the jury to return a verdict for $4800, which the jury promptly did.

After a critical examination of all the evidence, the author had about reached the conclusion that this celebrated suit was a mere formality, as contended by the company, when a bit of evidence came to light not hitherto known to students of the subject. On the margin of the judgment recorded in the McLean

Circuit Clerk's office appears this significant entry: "Execution issued to Sheriff Moore, Aug. 1, 1857." It is, therefore, apparent that the company did not "promptly pay" the judgment as it says it did, and doubtless would have done had the suit been merely formal. Thirty-eight days after a jury had said that Lincoln was entitled to his fee, the claim remained unsatisfied, and it was not until the Sheriff had been directed to seize the property of the railroad that payment was made.

In this connection it may be noted that recent investigation disproves another oft-quoted illustration of Lincoln's alleged slipshod methods in business matters. Herndon, usually accurate, but writing many years afterward, says that Lincoln came in from Bloomington with the Illinois Central fee in his pocket and that he divided the cash with his partner on the spot. Aside from the fact that corporations do not pay large claims in cash, the old ledger of the Springfield Marine Bank, where Lincoln kept his account, contradicts this state-

ment by an entry on August 12, 1857, showing a deposit on that date to the credit of A. Lincoln of $4800, the exact amount of the judgment.

Lincoln continued to represent the railroad company and to ride on its pass as long as he practiced law. And it may be, as Mr. Capen thinks, that Mr. Joy, the general counsel, was responsible for this suit, and that Lincoln's resentment was directed toward him personally and not against the corporation. Still, one cannot examine the evidence without feeling that the company on this occasion did not accord to its great lawyer quite the consideration to which he was entitled.

The first case in which Lincoln appeared as a defendant was styled "Commonwealth of Kentucky versus Abraham Lincoln," and is the only instance in his life when he was ever charged with a penal offense.

During the fall and winter of 1826, Lincoln worked on a ferryboat near Posey's Landing, at the mouth of Anderson Creek and the Ohio River, in Spencer County, Indiana. His em-

THE OHIO RIVER AT THE MOUTH OF ANDERSON CREEK
WHERE LINCOLN WORKED ON A FERRYBOAT

ployer was James Taylor, and his wages were six dollars a month and board. River traffic in those days was at its height. The broad surface of the Ohio carried a constant stream of travel —flatboats, loaded with pork and corn, that followed the gentle current toward the Mississippi; passenger steamboats sturdily ploughing upstream to Louisville and Cincinnati; home-seekers with families and household goods on their way to the frontiers of the North and West. The new job was a fascinating experience to the young ferryman of seventeen, as he mingled with types of humanity more varied than the backwoods had ever produced.

The early spring of 1827 found him at home again, but the bustle and adventure of the river were in his blood, and in a short time he was back on the Ohio, this time at Bates's Landing, a mile and a half below the mouth of Anderson Creek, hard at work in the construction of a scow or light flatboat of his own. His ambition was to load his craft with

produce and make a trip down the river, perhaps to the great market of New Orleans. However, when the boat had been finished, he discovered that it was not so easy to obtain a cargo, and the little money that he had saved from his meager earnings during the fall and winter was gone. He would have been in desperate straits, as he waited for business, had he not obtained occasional employment to carry travelers and their baggage out to steamers that had been hailed in midstream.

It was in this way that Lincoln earned his first dollar for less than a full day's work, and the story, as related by him many years later to Secretary Seward and other members of his Cabinet, ran as follows:

"I was contemplating my new flatboat and wondering whether I could make it stronger or improve it in any particular, when two men came down to the shore in carriages with trunks and, looking at the different boats, singled out mine and asked: 'Who owns this?'

I answered, somewhat modestly, 'I do.' 'Will you,' said one of them, 'take us and our trunks out to the steamer?' 'Certainly,' said I. I was glad to have the chance of earning something. I supposed that each of them would give me two or three bits. The trunks were put on my flatboat and the passengers seated themselves on the trunks, and I sculled them out to the steamer.

"They got on board and I lifted up their heavy trunks and put them on deck. The steamer was about to put on steam again when I called out that they had forgotten to pay me. Each of them took from his pocket a silver half-dollar and threw it on the floor of my boat. I could scarcely believe my eyes as I picked up the money. Gentlemen, you may think it was a very little thing, and in these days it seems to me a trifle, but it was the most important incident in my life. I could scarcely credit that I, a poor boy, had earned a dollar in less than a day—that by honest work I had earned a dollar. The world seemed fairer and

wider before me. I was a more hopeful and confident being from that time."

But this occupation, strangely enough, before long got him into the toils of the law. One day, just as Lincoln had made one of these trips, he was hailed from the opposite side by John T. Dill, who operated the ferry near this point, and in response to the signal Lincoln rowed over to the Kentucky shore. No sooner had his boat touched the bank than he was roughly seized by Dill and his brother Lin, who had been hidden in the bushes.

In vehement language they accused Lincoln of interfering with a licensed ferry by transporting passengers for hire and announced their intention to "duck" him in the river then and there. However, after some discussion, and influenced, no doubt, by the rather formidable physique of the young riverman, the Dill brothers decided not to attempt retaliation themselves, but to invoke the law instead.

This method of settling the difficulty was

THE HOME OF SQUIRE SAMUEL PATE, NEAR LEWISPORT, HARDIN COUNTY, KENTUCKY, WHERE LINCOLN WAS TRIED

THE OLD HOME OF DAVID TURNHAM, NEAR DALE, INDIANA

The author in the foreground

satisfactory to Lincoln, and, without further delay, they set out for the home of Samuel Pate, a farmer and Justice of the Peace, who lived only a short distance down the river. The ferry was being operated from the Kentucky side on his land, and the Dills were confident that Pate would inflict swift and adequate punishment on their bold and lawless competitor.

Squire Pate had just erected a large, comfortable home of hewn logs, with a long, wide porch and an east room more spacious than the rest where he could hold court. He was at home when the party arrived, and, a warrant having been sworn out by John T. Dill, both sides being ready, the trial of the Commonwealth of Kentucky versus Abraham Lincoln proceeded.

The prosecuting witnesses related how the defendant had on several occasions carried passengers and baggage from the Indian ashore to steamers out in the river. They testified that they had seen these passengers pay the

defendant for the service rendered and that he was, therefore, infringing on their ferry franchise contrary to law.

The defendant, having no witness but himself, took the stand in his own behalf, and frankly admitted that, while waiting for a cargo to take down the river, he had carried travelers and their baggage out to passing steamboats; he had not known that this was against the law and he had not intended to encroach on the business of the regular ferry. In fact, he had carried no passengers that the ferry could have handled, since in each instance that boat had been on the opposite side of the river and the steamers, as everybody knew, would not wait.

The tall, gawky figure of the youthful defendant, clad in deerskin shirt, home-made jeans breeches, dyed brown with walnut bark, his coonskin cap crumpled in his big, callous hands, together with the obvious sincerity of his testimony, must have impressed Squire Pate, who, at the conclusion of the evidence,

got down his battered copy of Littell's Laws of Kentucky and began to examine it with more than usual care.

Turning from the index to a chapter entitled "An Act Respecting the Establishment of Ferries," he studied it for a few moments, and then, in an easy, informal fashion, delivered the judgment of the Court. The northern boundary of Kentucky ran to low-water mark on the Indiana side of the Ohio. Consequently, although the alleged offense had been committed from the far side of the river, the courts of Kentucky had jurisdiction. But had any offense, in fact, been committed? Section 8 of the chapter relating to ferries provided that:

"If any person whatsoever shall, for reward, set any person over any river or creek, whereupon public ferries are appointed, he or she so offending shall forfeit and pay five pounds current money for every such offence; one moiety to the ferry-keeper nearest the place where such offence shall be committed, the

other moiety to the informer; and if such ferry-keeper informs, he shall have the whole penalty to be recovered with costs."

This, the Court observed, was heavy punishment, especially in view of the fact that, under the law, those unable to pay such fine must go to prison. This statute must, therefore, in the interest of justice, be strictly construed. Now, the testimony failed to show that the defendant Lincoln had ever "for reward set any person over any river or creek." "Over" meant "across" and it was not claimed that the defendant had ever taken anybody "across" the river for "reward." The evidence was clear that he had taken passengers for hire out to the middle of the river, but this had not been made an offense by the Legislature of Kentucky. The warrant against the defendant must, therefore, be dismissed.

After the Dill brothers, much disgruntled, had departed, Lincoln sat on the porch for a while, talking to Squire Pate. The Squire spoke of the many difficulties that arose

through ignorance of law, and expressed at some length his opinion that every man would be a better and more useful citizen if he possessed a general knowledge of the laws under which he lived and particularly those relating to the business in which he was engaged. The young riverman listened attentively to everything the older man said and asked many questions about law and court procedure. In fact, he seemed so much interested that, as he left the house, Pate invited him to attend future sessions of his Court when convenient to do so. And thereafter Lincoln on several occasions paddled across the Ohio to what was known in the vernacular of the backwoods as "law day" at the house of Squire Pate.

Samuel Pate has long since gone to his reward. A simple headstone in a little ivy-covered plot at the bend of the river marks his grave. But the old house of logs hewn by his own hands, now weather-boarded, has stood well the weight of years, with its wide porch and spacious east room just as they were the

day of Lincoln's trial nearly a century ago.

Just what influence this experience had on Lincoln will, of course, never be known. It is a fact, however, that following this incident he began the study of his first law book, "The Revised Laws of Indiana" which he found at the home of his intimate friend, David Turnham, six years Lincoln's senior. To these statutes were prefixed, as stated on the title-page, "the Declaration of Independence, the Constitution of the United States, the Constitution of the State of Indiana, and sundry other documents connected with the Political History of the Territory and State of Indiana. Arranged and published by authority of the General Assembly."

Young Lincoln, according to his stepmother Sally Bush Lincoln, his cousin Dennis Hanks, and David Turnham, studied this book with intense application. In a letter to William H. Herndon, dated October 12, 1865, the original of which is in the possession of the author, Turnham says of this book: "When Abe and

I were associates he would come to my house and sit and read it. It was the first law book he ever saw." Turnham was a Constable at that time and, as an officer of the law, was required to keep his statutes at hand for ready reference. And, since the book could not be borrowed, Lincoln came to the Turnham home day after day until he had thoroughly absorbed its contents. Here he read for the first time not only the imperishable declaration that "all men are created equal," but also the Constitution of the United States, the Act of Virginia of 1783, by which the territory "northwestward of the river Ohio" was conveyed to the United States, and the Ordinance of 1787, governing this territory which contained the famous sixth article:

"There shall be neither slavery nor involuntary servitude in the said territory otherwise than in the punishment of crimes, whereof the party shall have been duly convicted: provided always that any person escaping into the same, from whom labor or service is lawfully

claimed in any one of the original States, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labour or service as aforesaid."

Undoubtedly the boy of eighteen was deeply impressed by these immortal documents. That he was permanently influenced by them, Lincoln publicly acknowledged thirty-four years later at Independence Hall, Philadelphia, when he said: "All the political sentiments I entertain have been drawn, so far as I have been able to draw them, from the sentiments which originated and were given to the world from this Hall. I never had a feeling politically that did not spring from the sentiments embodied in the Declaration of Independence." And Miss Tarbell's recent book, "In the Footsteps of the Lincolns," commenting on this utterance, says: "It was in David Turnham's Statutes of Indiana that he first found these sentiments. He did not merely read the documents in the Revised Statutes, he studied them, pondered them, saturated himself with

them. They were the strongest, most satisfactory food his mind had yet found."

It is fortunate that the original copy of these statutes has been preserved. Few of the books that Lincoln read in boyhood now exist. The Lincoln family Bible, in the famous Oldroyd collection in Washington; "The Kentucky Preceptor," in the superb collection of Oliver R. Barrett, of Chicago; and the "Revised Laws of Indiana," now owned by the author, are all that a close search has revealed.

In 1865, David Turnham gave the original copy of the "Revised Laws of Indiana" to William H. Herndon, Lincoln's law partner and biographer, who, a few years before he died, presented it to the Lincoln Memorial Collection of Chicago. When this collection was sold in Philadelphia, December 5, 1894, Mr. William H. Winters, Librarian of the New York Law Institute, purchased this book and it remained in his hands until the disposal of his library at auction, after his death, March

8, 1923, at which sale it was acquired by the author and is now in his collection of Lincolniana at Lexington, Kentucky. While students and biographers were freely permitted to examine this book, Judge Winters never allowed it to be photographed and a reproduction of it appears here for the first time.

Pasted inside the front cover of this old volume is an interesting history of the book, in the handwriting of William H. Herndon, as follows:

"In the year 1865 I was in Spencer County, Indiana, Lincoln's old home, gathering up the facts of young Abraham's life. I then and there became acquainted with David Turnham, merchant, and man of integrity, a playmate, schoolfellow, associate, and firm friend of Mr. Lincoln, who gave me, at that time and place, a good history of young Lincoln. I took the history down in his presence at the time. At the conclusion of our business, he asked me if I would like to have some relic of Mr. Lincoln, and to which I said I should

like to have such relic very much; he then gave me this book, stating to me that it was the first law book that Lincoln ever read. I now present this sacred relic to the Lincoln Memorial Collection, May 18th, 1886.

"WM. H. HERNDON"

Although, in after years, their paths seldom crossed, Lincoln never forgot his old friend, David Turnham. In the midst of grave responsibility and the cares and anxiety that came to the Presidential candidate, firm in the resolve to maintain the principles which he had been taught long ago in Turnham's book, Lincoln found time to write the following rather wistful letter, which has recently come to light in the custody of George Turnham, a son of the Indiana Constable:

SPRINGFIELD, ILL., *Oct.* 23, 1860

DAVID TURNHAM, ESQ.

MY DEAR OLD FRIEND:

Your kind letter of the 17th is received. I am indeed very glad to learn that you are still living and well. I well remember when you

and I last met, after a separation of fourteen years, at the cross-road voting place in the fall of 1844. It is now sixteen years more and we are both no longer young men. I suppose you are a grand-father; and I, though married much later in life, have a son nearly grown. I would much like to visit the old home and old friends of my boyhood, but I fear the chance for doing so soon is not very good.

Your friend and sincere well-wisher,

A. Lincoln

The first civil action in which Lincoln was a defendant is filed in the Sangamon Circuit Court, dated August 10, 1833, and styled "Jas. D. Henry for the use of Jas. McCandless & Henry Emerson vs. Nelson Alley & A. Lincoln." Judgment is asked on a note which is in words and figures as follows, to wit:

$104.87½

Six months after date we or either of us promise to pay to J. D. Henry Sheriff of San-

gamon County, or order, (for the benefit of the creditors of V. A. Bogue) the sum of one hundred and four dollars eighty seven ½ cents, value received this the 30th Oct., 1832.

NELSON ALLEY
A. LINCOLN

Summons was served on Lincoln August 20, 1833, and George Forquer was attorney for the plaintiff. Lincoln and Alley were then residents of New Salem, and Alley was the owner of the now famous Rutledge Tavern where Lincoln lived and courted the lamented Ann Rutledge. At this time Lincoln's finances were at a low ebb. The store of Berry and Lincoln, in the graphic language of the junior partner, was soon to "wink out," leaving a tremendous burden of obligations on Lincoln. Since the spring of that year he had been the village postmaster, but the income from this source, together with his earnings from odd jobs as sawmill and harvest hand, scarcely sufficed for the barest necessities.

V. A. Bogue, for the benefit of whose creditors this note had been executed, was Captain Vincent Bogue, owner of several mills along the Sangamon River, who had chartered the ill-fated Talisman in an effort to prove the navigability of that stream. Great excitement had swept through the country in the late winter of 1832 when it was announced that a steamboat would make a trip from Cincinnati up the Sangamon River to Springfield just as soon as the ice went out.

Public meetings were held and pledges subscribed by leading citizens and business men to defray the expenses of the venture. The merchants of Springfield and New Salem advertised the early arrival of goods "direct from the East per steamer Talisman"; mails were promised as often as once a week from the same direction; land adjoining each village and hamlet along the river was subdivided into town lots; and the whole country took on the appearance of what was known in later days as a "boom."

Springfield, Ills. Oct 23. 1860

Dear Sir Burnham, Esq

My dear old friend:

Your kind letter of the 17th is received. I am indeed very glad to learn you are still living and well— I well remember when you and I last met, after a separation of fourteen years, at the Cross-road voting place, in the fall of 1844. It is now sixteen years now and we are both no longer young men— I suppose you are a grand-father; and I, though married much later in life, have a son nearly grown—

I would much like to visit the old home, and old friends of my boyhood, but I fear the chance for doing so soon, is not very good.

Your friend & sincere well-wisher A. Lincoln

In March, the Talisman and Captain Bogue arrived at Beardstown, where they were given a most enthusiastic welcome by prominent settlers who had journeyed overland to meet the boat. Much thought had been given to the selection of a pilot to guide the vessel through the uncertain channel to Springfield, and the unanimous choice had finally fallen upon Abe Lincoln, the most experienced navigator of the Sangamon. As the Talisman swung up to the wharf at Beardstown amid deafening cheers, Lincoln, fully aware of the honor which had been conferred upon him, was on hand and ready to assume his duties.

With a crew armed with long-handled axes to cut away the branches overhanging its path, the sturdy little steamboat, making about four miles an hour, moved triumphantly up the river and in due time dropped anchor safely at Captain Bogue's mill-dam two or three miles from Springfield. Here another hearty reception awaited the Captain, his pilot and crew, who were placed at the head of a pro-

cession and carried into town for a week's celebration of the historic occasion. A dance was given at the court-house, private homes were thrown open to the entertainment of the visitors, and much good cheer dispensed at the tavern "Indian Queen," where the tall, lank pilot instantly captured the crowd with his droll stories, and, probably, joined in singing the doggerel composed by a local rhymester and set to an old familiar tune, which ran as follows:

"Oh, Captain Bogue, he gave the load,
And Captain Bogue he showed the road,
And he came up with a right good will
And tied his boat up to his mill.

"Now we are up the Sangamaw,
And sure will have a grand hurrah;
So fill your glasses to the brim
With whiskey, brandy, wine, and gin.

"Illinois suckers, young and raw,
Were strung along the Sangamaw,
To see the boat come up the stream.
They surely thought it was a dream."

At the end of the week, receding waters warned the voyagers of the necessity for im-

mediate departure, and the boat started on the return trip. Reaching New Salem without mishap, the steamer stuck there on the Cameron and Rutledge mill-dam. After some argument with the owners relative to maritime law and the right to obstruct a navigable stream, the anchor was thrown over the dam, a part of it was torn away, and, with steam raised, the intrepid pilot ran the boat over at the first trial.

On arrival at Beardstown, Lincoln turned his charge over to others, and, having collected his pay of forty dollars, returned on foot to New Salem.

This trip had done much for Lincoln, besides the comfortable sum it had put into his empty pockets. It had introduced him to Springfield, and for the first time in his life he had been in the public eye. It had given him an opportunity to measure himself by other men, the stalwart leaders of the frontier, and to know them. They had enjoyed his quaint humor, they had sought his society, and they had paid due deference to his skill with river-

craft. All these things Lincoln, the candidate, shrewdly saw, and with a light heart and silver dollars jingling in the pockets of his jeans trousers, he plunged eagerly into his campaign for election to the Legislature.

A few months later the Talisman caught fire at the wharf in St. Louis and burned to the water's edge. This misfortune completed the financial ruin of the doughty Captain Bogue, who had lost heavily on the Sangamon River experiment, and who now, unable to weather this new disaster, disappeared from the country, leaving what property he had to squabbling creditors.

This note executed by Alley and Lincoln on October 30, 1832, is undoubtedly an outgrowth of Bogue's navigation venture. It may be that Alley alone had signed a subscription list pledging funds for the Talisman and that, later, Lincoln, as an accommodation to his friend, signed the note with Alley to J. D. Henry, the Sheriff, who was collecting Bogue's assets for distribution to his creditors. It is

more probable, however, that Alley and Lincoln had made a joint pledge to Bogue, which Lincoln could not pay owing to circumstances unforeseen at the time. In April, 1832, he had enlisted in the Black Hawk War, had remained in the service until late in July, and had then returned to New Salem penniless and without employment. Alley, it seems, although the owner of real estate, was not able to settle his part of the obligation either, and he and Lincoln executed their note on the date aforesaid for the principal and interest. But the end of six months found Lincoln's financial condition worse than ever, if such could be possible, and the suit followed. No defense was made, and on Friday, September 13, 1833, a default judgment was entered for the plaintiff. The judgment was evidently paid, just as Lincoln, slowly, but with unfaltering honesty, settled with all his creditors. The execution book shows that it was "satisfied in full March 17, 1834."

It is an interesting fact in connection with this case that the lawyer who filed the first

suit against Lincoln was destined to be known to posterity as the victim in later years of Lincoln's famous "lightning rod" speech. In the spring of 1836, Lincoln was a candidate to succeed himself in the Illinois Legislature, and the race was growing warm and bitter. One afternoon the young candidate made an eloquent and convincing speech in an attempt to calm the rising passions of both parties. As he finished, George Forquer, who had sued Lincoln several years before, rose to reply. Forquer had recently left the Whigs and gone over to the Democratic Party, where his ability as a politician had immediately secured his appointment as Register of the Land Office at a lucrative salary of $3000 a year, and he lived in a fine house on which he had erected the only lightning rod in Springfield. With an air of lofty superiority, Forquer began his speech by saying that the young man who had just spoken needed to be taken down and that he was sorry that the task had fallen to him. He then proceeded in a most contemptuous

vein toward the long, ungainly candidate. Hot with resentment, Lincoln took the platform when his self-appointed opponent had finished and delivered a scathing reply, concluding as follows:

"Mr. Forquer commenced his speech by announcing that the young man would have to be taken down. It is for you, fellow citizens, not for me, to say whether or not I am up or down; but he forgets that I am older in years than I am in the tricks and trades of politicians. I desire to live, and I desire place and distinction, but I would rather die now than, like the gentleman, live to see the day that I would change my politics for an office worth $3000 a year, and then feel compelled to erect a lightning rod to protect a guilty conscience from an offended God."

On the twenty-sixth day of August, 1833, Alexander Trent and Martin S. Trent sued David Rutledge, William Green, Jr., and A., *alias* Abra-

ham, Lincoln at Springfield on a bond for $150, executed by defendants January 31, 1833, and drawn in Lincoln's handwriting, to secure the conveyance of "the east half of Lot number five South of Main Street in the first survey in the town of New Salem." On Monday, September 16, 1833, an agreed order was entered in this case dismissing the suit and providing that "each party pay half of the cost." The bond in this case, so far as can be discovered, is the first legal document Lincoln ever wrote, and the lot therein mentioned adjoined the Rutledge Tavern on the east. At this time, David Rutledge and William Green were preparing to, and shortly thereafter did, attend Illinois College at Jacksonville. It is not at all improbable that Rutledge was disposing of this lot in order to raise funds with which to pay tuition and expenses, and that Lincoln, in hearty sympathy with the plan, readily lent his assistance as legal adviser, draftsman, and surety.

William Green was one of Lincoln's earliest

Know all men by these presents that we David Rutledge. William Green Jr. and A. Lincoln are held and firmly bound unto Alexander Trent and Martin S. Trent in the penal Sum of one hundred and fifty dollars well and truely to be paid unto them — as witness our hands and seals this 31st of Jany 1833 —

David Rutledge
William Green
A. Lincoln

The condition of the above obligation is such If the above bounden David Rutledge shall make a good and lawful deed of conveyance to the said Alexander Trent and Martin S. Trent for the East half of Lot Number five South of Main Street in the first survey in the town of New Salem - - - on or before the first day of July next the above obligation is to be null void and of no effect — otherwise to remain in full force and virtue at Law

In testimony where of the said David Rutledge Alexander Trent and Martin S. Trent have hereunto set their hands and seals this 31st day of January 1833

David Rutledge
A. Trent
M. S. Trent

THE FIRST LEGAL DOCUMENT LINCOLN EVER WROTE

New Salem friends. In 1831, he was a clerk in the store run by Lincoln for Denton Offutt, and he and his lank, rawboned "boss" slept together in the rear of the store on a cot so narrow that "when one turned over the other had to do likewise." At the outbreak of the Black Hawk War, Green and Lincoln enlisted in the same company, and it was largely through Green's influence with the members of that rough, undisciplined band that his old bunkmate was chosen Captain, his first elective office.

Upon their return to New Salem after being mustered out of the service, the two comrades were inseparable until Green went away to college and Lincoln was elected to the Legislature at Vandalia. But Lincoln never forgot Green, nor his loyalty and friendship in the days when he needed friends, and even the great tide of the Rebellion never wholly swept them apart, as the following incident shows:

During the war, Green, who was Collector of Internal Revenue at Peoria, was called to

Washington for a conference with President Lincoln. On being admitted to the office of the Chief Executive, he found Mr. Seward, a member of the Cabinet, present. After greeting his old friend warmly, Lincoln turned to his Secretary of State and said: "Seward, shake hands with Bill Green of Illinois, the man who taught me grammar." Considerably embarrassed by this statement, Green, whose language was often far from grammatical, refrained from conversation in Seward's presence for fear that statesman would discover his deficiency, which, he thought, might reflect on the President. But, when Seward had gone, Green turned to Lincoln and said: "Abe, what did you mean by telling Mr. Seward that *I* taught you grammar? Lord knows I don't know any grammar myself, much less could I teach you." To which Lincoln responded: "Bill, don't you recollect when we stayed in Offutt's store at New Salem that you would hold the book and see if I could give the correct definitions and accurate answers to the

questions?" "Yes, Abe," said Green, "I do remember that, but that was not teaching you grammar." "Bill," responded the President, "that was all the teaching of grammar I ever had."

But there was a stronger reason for Lincoln assuming, poor as he was, the obligations of this title bond than his long association with William Green, intimate though it was. Since the past summer Lincoln had lived at the tavern of James Rutledge, foremost citizen of New Salem. The surroundings here were the most congenial he had ever known. Not only had a warm friendship sprung up between Lincoln and David Rutledge, son of the proprietor, but the new boarder was growing very fond of David's favorite sister, Ann, a slender, dainty, singularly attractive girl, with violet-blue eyes and golden-auburn hair. During the months to come, the attachment became mutual, and their engagement followed. The marriage, however, was deferred in order that Ann might enter the Jacksonville Female Academy for a

year, in which event Lincoln was to attend Illinois College at the same place.

Then that frightful epidemic, the "bilious fever," struck the community, and on August 25, 1835, after an illness of six weeks, and an hour alone with Lincoln, Ann Rutledge died.

On a Sunday afternoon in June, 1923, the author, who, with Dr. William E. Barton, of Oak Park, Illinois, had just completed, by automobile, the first pilgrimage ever made from Springfield, Kentucky, near where Thomas Lincoln and Nancy Hanks were married, through the Lincoln country of western Kentucky and southern Indiana into Illinois, and Thomas P. Reep, of Petersburg, Illinois, director in the Salem League engaged in the restoration of New Salem, started out to locate the original grave of Ann Rutledge. In 1890 an attempt had been made to remove the remains to Oakland Cemetery at Petersburg, but after all the years it was little more than an empty ceremony.

The spot we sought was where Ann had

THE OLD CONCORD BURYING-GROUND ON SAND RIDGE,
MENARD COUNTY, ILLINOIS

THE GRAVES OF ANN RUTLEDGE AND HER BROTHER
DAVID IN THE OLD CONCORD BURYING-GROUND

returned to dust under the sod of her native heath. We learned that David Rutledge, who died in the early forties, had been buried beside his sister in a country graveyard some miles distant, but whether his grave was marked, or just where it was, nobody seemed to know.

Five miles north of Petersburg, after some inquiry, we left the road and drove through the fields until we came to the Old Concord burying-ground on a sunny slope of Sand Ridge. About an acre in area, long since abandoned, it lies there utterly neglected and forgotten. Yet it holds many of the dearest friends of Lincoln's youth. The Armstrongs, the Clarys, and others sleep in unmarked graves beneath the tangled vines.

In the tall weeds and dense undergrowth it was difficult to locate even the few tombstones that have been erected. Slowly we pushed our way back and forth through the bushes and brambles, and were on the point of giving up our search when suddenly we came upon a mildewed, weather-beaten sandstone slab which

bore the faint inscription: "Sacred to the memory of David H. Rutledge, who departed this life June 7, 1842, aged 26 yrs, 9 mos and 17 days." Beside this grave, still discernible but unmarked, is the original resting-place of Lincoln's sweetheart, Ann Rutledge.

John T. Stuart, who was to be Lincoln's first law partner, in this suit against Rutledge, Green, and Lincoln, represented the Trent brothers, who were also Lincoln's clients in his first case. While Lincoln was reading law at New Salem, a dispute arose between Jack Kelso and the Trents over the ownership of a white hog. Lincoln represented the two brothers and brought his first suit in the Court of Squire Bowling Green. On the trial the plaintiffs proved positively by three witnesses that the hog belonged to them. Kelso had no witnesses except his own testimony. In summing up the case for his clients, Lincoln argued to the Court that the rules of evidence required a decision according to the preponderance of the proof, to which the old Squire responded:

"Abe, all you say may be true, but this Court has in mind another rule of law which says that a case should be decided according to the actual facts. Now the Court knows these witnesses and he also knows this hog. He knows these witnesses are lying and personally knows this shoat belongs to Kelso. Judgment for the defendant."

The next suit against Lincoln grew out of his unfortunate venture in the mercantile business with William F. Berry. These two enterprising young men had purchased two stores without a dollar changing hands, the firm of Berry and Lincoln merely executing notes for the purchase price, and this plan had worked so successfully that the partners stood ready to buy out all competitors and make a "corner" in this business at New Salem. An opportunity soon presented itself.

Early in the year 1833, Reuben Radford, a rival storekeeper, became involved in an altercation with the Clary's Grove boys. Radford was a man of robust physique, and he loudly

announced his ability to protect himself and his property, and his intention to do so. He, furthermore, directed his clerk never to sell any member of the Clary's Grove gang more than two drinks of liquor on a single occasion. Shortly thereafter, the boys from the Grove rode up one afternoon and, Radford being absent, obtained from his younger brother, in charge of the store, two drinks each. They then demanded more and, upon refusal, they jumped over the counter, helped themselves to the stock, and then, thoroughly drunk, proceeded to break up the place. Barrel-heads were knocked in, bottles broken, showcases, crockery, and windows smashed, and the doors splintered. When the destruction appeared quite complete, they leaped on their horses and, yelling like Indians, rode out of town for home.

In a little while Radford returned and, as he stood in the midst of the wreckage, declared that he would sell out to the first man who made him an offer. Just then William

Green rode up on his way to mill, and, hearing Radford's statement, said: "Sell out to me." "I will," replied Radford; "how much will you give me?" Green spurred his horse up to the side of the store and stuck his head through a broken window, and after a hasty survey offered the proprietor the sum of four hundred dollars for the lot, building and stock, with twenty-three dollars cash and his note for the balance, which Radford promptly accepted.

As the trade was being closed, Lincoln, who had just heard of the purchase which his old friend had made, strolled over to see what was going on. Looking over the contents, he suggested to Green that they make an inventory, to which Green, unfamiliar with the term and thinking that it meant some sort of riotous celebration, replied: "Abe, I don't believe this store will stand another one just at this time." Lincoln then explained that he meant that the stock of goods should be listed and appraised, and, this being agreeable to the new owner, they

proceeded at once to take the inventory. Before the task was completed, however, it became evident that the stock would run to nearly twelve hundred dollars, and Lincoln proposed to Green that he sell out to the firm of Berry and Lincoln for seven hundred and fifty dollars, which Green did. The firm in some way managed to obtain two hundred and fifty dollars in cash which was paid to Green, the note for three hundred and seventy-seven dollars to Radford was assumed, and Berry turned over his horse, saddle, and bridle for the remainder.

But the firm of Berry and Lincoln was destined to an early failure. It could not have been otherwise. Neither partner possessed in any degree the instinct for barter and sale, and their habits, though wholly different, were anything but conducive to the success of the business. Following the general custom, the firm kept a stock of whiskey, wine, gin, and brandy, and the senior partner was a frequent and liberal consumer. Liquor was cheap, his

thirst was great, and the consequence may be easily imagined. The junior partner was also interested in other things besides keeping store. He was beginning the study of law, and customers were often neglected while Lincoln read and discussed Shakespeare and Burns with his friend, Jack Kelso.

Before the end of a year the business had gone to pieces, leaving a batch of unpaid notes staring the firm in the face. To the credit of Berry let it be said, contrary to tradition, that, according to the court files, wreck though he was, he helped Lincoln pay off the creditors during his few remaining months of life. Then he died and left Lincoln with a staggering load of debt on his shoulders and nothing to pay it with. Refusing to follow the custom of debtors of that day, who, when deeply involved, usually disappeared from the country, Lincoln met the situation with unflinching courage and finally paid off every dollar, although it took him years to do it.

The only favor Lincoln asked in this ex-

tremity was that his creditors give him time, and this most of them did. However, the renewal note to Radford for the purchase of his store had been assigned to Peter Van Bergen, who refused to wait for his money and filed suit against Lincoln on April 7, 1834. Various biographers have placed this litigation in the court of Lincoln's old friend, Bowling Green; others before Squire Edmund Greer. However, a search recently made by the author uncovered the original papers in the Sangamon Circuit Court at Springfield.

Lincoln was summoned on August 20, 1834. It has hitherto been generally understood that the dissolute Berry had died prior to the time this suit was brought, but the record shows him to have been living then, as summons is served on him five days earlier than on Lincoln. The note had been reduced by partial payments to $204.82, of which Van Bergen was entitled under the assignment to $154, and Radford to the balance. Tradition has it that William Green, surety on the note, gave

up his horse on the debt, and this is substantiated by a credit thereon, to wit: "Received on the within obligation thirty five dollars in part pay of a horse beast October the 11, 1834. R. Radford." It also appears that Berry himself satisfied the small remaining balance due Radford, according to the following assignment: "I assign the within obligation to Wm. F. Berry for value received of him this the 19th day of Nov. 1834. R. Radford."

But the defendants were unable to meet Van Bergen's part of the note, and on November 19, 1834, a judgment was entered against Lincoln and his co-defendants for $154 and costs. An execution was issued under this judgment, and the Sheriff took possession of all the poor worldly belongings of Abraham Lincoln. By the levy on his horse, saddle, bridle, compass, chain, and other surveying instruments, he was deprived of the very means whereby he had begun to earn an independent livelihood. But in the midst of his distress, a friend came to the rescue in the person of "Uncle

Jimmie" Short, who "liked Abe Lincoln." On the day of sale he bid all the property in and gave it back to Lincoln. With tears of gratitude in his earnest gray eyes, Lincoln thanked his benefactor. "Uncle Jimmie, I'll do as much for you some time," he said. And in this, as in all other things, Lincoln kept his word. After he went to Springfield to practice law he paid Short back in full, and years afterward, when the old man, having lost his property, had moved to California, penniless, "Uncle Jimmie" received, without solicitation, a commission from President Lincoln appointing him Indian Agent.

Lincoln's troubles were not yet over with the end of the Van Bergen suit. The horse which he had come so near losing was not fully paid for. Lincoln had purchased the animal from Thomas Watkins, of Petersburg, for fifty dollars, to be paid in installments. Ten dollars still remained unpaid and Watkins, although one of the wealthiest men in Menard County, became uneasy about his money and

sued the young deputy surveyor for the balance of the purchase price in the court of Squire Edmund Greer. From some source, Lincoln borrowed the ten dollars and settled with Watkins before final judgment.

A few months after Lincoln was admitted to the Bar, he became involved in a wordy altercation with General James Adams, a pompous, swashbuckling, self-styled hero of the Winnebago and Black Hawk Wars. The young lawyer, representing a poor widow, boldly charged that the name of his client's dead husband had been forged by the General to a document whereby he had been able to obtain possession of a tract of land which rightfully belonged to the widow.

The General, at that time a candidate for office, with great show of indignation denied the charge and claimed that it was an infamous attempt on the part of his political enemies, headed by Lincoln — "a nobody just come to town" — to injure politically an old and prominent citizen of Springfield, and he intimated

further that he intended to sue Lincoln for slander. However, Lincoln was not to be intimidated by bluster or denunciation. Heedless of personal consequences, as he always was when the champion of a righteous cause, he answered the General's threat of litigation by repeating the accusation in a printed hand-bill, thus inviting an action for libel as well as slander, and, after the election, on August 19, 1837, he had the hand-bill reproduced in the "Sangamon Journal," as the old files of that newspaper show, as follows:

TO THE PUBLIC

It is well known to most of you that there is existing at this time considerable excitement in regard to Gen. Adams's titles to certain tracts of land, and the manner in which he acquired them. As I understand, the General charges that the whole has been gotten up by a knot of lawyers to injure his election; and as I am one of the knot to which he refers, and as I happen to be in possession of facts con-

nected with the matter, I will, in as brief a manner as possible, make a statement of them, together with the means by which I arrived at the knowledge of them.

Sometime in May or June last, a widow woman, by the name of Anderson, and her son, who resides in Fulton County, came to Springfield, for the purpose, as they said, of selling a ten-acre lot of ground lying near town, which they claimed as the property of the deceased husband and father.

When they reached town they found the land was claimed by Gen. Adams. John T. Stuart and myself were employed to look into the matter and, if it was thought we could do so with any prospect of success, to commence a suit for the land. I went immediately to the recorder's office to examine Adams' title, and found that the land had been entered by one Dixon, deeded by Dixon to Thomas, by Thomas to one Miller, and by Miller to Gen. Adams. The oldest of these three deeds was about ten or eleven years old,

and the latest more than five, all recorded at the same time, and that within less than one year.

This I thought a suspicious circumstance, and I was thereby induced to examine the deeds very closely, with a view to the discovery of some defect by which to overturn the title, being almost convinced then that it was founded in fraud.

I finally discovered that in the deed from Thomas to Miller, although Miller's name stood in a sort of marginal note on the record book, it was nowhere in the deed itself.

I told the fact to Talbott, the recorder, and proposed to him that he should go to Gen. Adams's and get the original deed, and compare it with the record, and thereby ascertain whether the defect was in the original or there was merely an error in the recording. As Talbott afterwards told me, he went to the General's, but not finding him at home, got the deed from his son, which, when compared with the record, proved what we had discovered was

merely an error of the recorder. After Mr. Talbott corrected the record, he brought the original to our office, as I then thought and think yet, to show us that it was right. When he came into the room he handed the deed to me, remarking that the fault was all his own. On opening it another paper fell out of it, which on examination, proved to be an assignment of a judgment in the Circuit Court of Sangamon County from Joseph Anderson, the late husband of the widow above named, to James Adams, the judgment being in favor of said Anderson against one Joseph Miller. Knowing that this judgment had some connection with the land affair, I immediately took a copy of it, which is word for word, letter for letter, and cross for cross, as follows:

"Joseph Anderson, vs. Joseph Miller.

"Judgment in Sangamon Circuit Court against Joseph Miller obtained on a note originally 25 dolls and interest thereon accrued.

I assign all my right, title and interest to James Adams which is in consideration of a debt I owe said Adams.

his
"Joseph x Anderson.
mark

"May 10th, 1827."

As the copy shows, it bore date May 10, 1827, although the judgment assigned by it was not obtained until the October afterwards, as may be seen by any one on the records of the Circuit Court. Two other strange circumstances attended it, which cannot be represented by a copy. One of them was that the date "1827" had first been made "1837" and without the figure "3" being fully obliterated, the figure "2" had afterwards been made on top of it; the other was that, although the date was ten years old, the writing on it, from the freshness of its appearance, was thought by many, and I believe by all who saw it, not to be more than a week old. The

paper on which it was written had a very old appearance; and there were some old figures on the back of it which made the freshness of the writing on the face of it, much more striking than I suppose it otherwise might have been. The reader's curiosity is no doubt excited to know what connection this assignment had with the land in question. The story is this: Dixon sold and deeded the land to Thomas—Thomas sold it to Anderson; but before he gave a deed, Anderson sold it to Miller, and took Miller's note for the purchase money. . . . When this note became due, Anderson sued Miller on it, and Miller procured an injunction from the Court of Chancery to stay the collection of the money until he should get a deed for the land. General Adams was employed as an attorney by Anderson in this chancery suit, and at the October term, 1827, the injunction was dissolved, and a judgment given in favor of Anderson against Miller; and it was provided that Thomas was to execute a deed for the land in favor of

Miller, and deliver it to Gen. Adams, to be held up by him till Miller paid the judgment, and then to deliver it to him. Miller left the county without paying the judgment. Anderson moved to Fulton County, where he has since died. When the widow came to Springfield last May or June, as before mentioned, and found the land deeded to Gen. Adams by Miller, she was naturally led to inquire why the money due upon the judgment had not been sent to them, inasmuch as he, Gen. Adams, had no authority to deliver Thomas's deed to Miller until the money was paid. Then it was the General told her, or perhaps her son, who came with her, that Anderson, in his lifetime, *had assigned the judgment to him,* Gen. Adams. I am now told that the General is exhibiting an assignment of the same judgment bearing date "1828"; and in other respects differing from the one described; and that he is asserting that no such assignment as the one copied by me ever existed; or if there did, it was forged between Talbott and

the lawyers, and slipped into his papers for the purpose of injuring him. Now, I can only say that I know precisely such a one did exist, and that Ben. Talbott, Wm. Butler, C. R. Matheny, John T. Stuart, Judge Logan, Robert Irwin, P. C. Canedy and S. M. Tinsley, all saw and examined it, and that at least one half of them will swear that IT WAS IN GENERAL ADAMS'S HANDWRITING!! And further, I know that Talbott will swear that he got it out of the General's possession, and returned it into his possession again. The assignment which the General is now exhibiting purports to have been by Anderson in writing. The one I copied was signed with a cross.

I am told that Gen. Neale says that he will swear that he heard Gen. Adams tell young Anderson that the assignment made by his father was signed with a cross.

The above are facts, as stated. I leave them without comment. I have given the names of persons who have knowledge of these facts, in order that any one who chooses may call on

them and ascertain how far they will corroborate my statements. . . . I shall not subscribe my name; but I hereby authorize the editor of the "Journal" to give it up to any one who may call for it.

(It having been stated this morning that the subscriber had refused to give the name of the author of the hand-bill above referred to — which statement is not true — to save any further remarks on this subject, I now state that A. Lincoln, Esq., is the author of the hand-bill in question.

SIMEON FRANCIS)

To these charges General Adams made a long and labored defense, which promptly brought from Lincoln the following reply in the "Journal" of September 9, 1837:

In the "Republican" of this morning a publication of Gen. Adams's appears in which my name is used quite unreservedly. For this I thank the General. I thank him because it

gives me an opportunity, without appearing obtrusive, of explaining a part of a former publication of mine, which appears to me to have been misunderstood by many.

In the former publication alluded to, I stated, in substance, that Mr. Talbott got a deed from a son of Gen. Adams's for the purpose of correcting a mistake that had occurred on the record of the said deed in the recorder's office —that he corrected the record, and brought the deed and handed it to me—and that, on opening the deed, another paper, being the assignment of a judgment, *fell out* of it. This statement Gen. Adams and the editor of the "Republican" have seized upon as a most palpable evidence of fabrication and falsehood. They set themselves gravely about proving that the assignment could not have been in the deed when Talbott got it from young Adams, as he, Talbott, would have seen it when he opened the deed to correct the record. Now, the truth is, Talbott *did* see the assignment when he opened the deed, or

at least he told me that he did on the same day; and I only omitted to say so, in my former publication, because it was a matter of such palpable and necessary inference. I had stated that Talbott had corrected the deed by the record; and of course he must have opened it; and, just as the General and his friends argue, must have seen the assignment. I omitted to state the fact of Talbott's seeing the assignment because its existence was so necessarily connected with other facts which I did state, that I thought the greatest dunce could not but understand it. Did I say Talbott had not seen it? Did I say *anything* that was *inconsistent* with his having seen it before? Most certainly I did neither; and if I did not, what becomes of the argument? These logical gentlemen can sustain their argument only by assuming that I *did say negatively* everything that I *did not* say affirmatively; and upon the same assumption, we may expect to find the General, if a little harder pressed for argument, saying that I said Talbott came to our

office with his head downward, not that I actually said so, but because I omitted to say he came feet downward.

In his publication of to-day, the General produces the affidavit of Reuben Radford, in which it is said that Talbott told Radford that he did not find the assignment in the deed, in the recording of which the error was committed, but that he found it wrapped in another paper in the recorder's office, upon which statement the General comments, as follows, to wit: "If it be true as stated by Talbott to Radford, that he found the assignment wrapped up in another paper at his office, that contradicts the statement of Lincoln that it fell out of the deed."

Is common sense to be abused with such sophistry? Did I say what Talbott found it in? If Talbott *did* find it in another paper at *his* office, is that any reason why he could not have folded it in a deed and brought it to *my* office? Can any one be so far duped, as to be made believe that what may have happened at

Talbott's office at one time is inconsistent with what happened at *my* office at another time?

Now Talbott's statement of the case as he makes it to me is this, that he got a bunch of deeds from young Adams, and that he knows he found the assignment in the bunch, but he is not certain which particular deed it was in, nor is he certain whether it was folded in the same deed out of which it was taken, or another one, when it was brought to my office. Is this a mysterious story? Is there anything suspicious about it? . . .

Excepting the General's most flimsy attempt at mystification, in regard to a discrepance between Talbott and myself, he has not denied a single statement that I made in my handbill. Every material statement that I made has been sworn to by men who, in former times, were thought as respectable as General Adams. I stated that an assignment of a judgment, a copy of which I have, had existed—Benj. Talbott, C. R. Matheny, Wm. Butler, and Judge Logan swore to its existence; I stated

that it was said to be in Gen. Adams's handwriting—the same men swore it was in his handwriting. I stated that Talbott would swear that he got it out of Gen. Adams's possession —Talbott came forward and did swear it.

Bidding adieu to the former publication, I now propose to examine the General's last gigantic production. I now propose to point out some discrepancies in the General's address; and such too, as he shall not be able to escape from. Speaking of the famous assignment, the General says, "This last charge, which was their last resort, their dying effort to render my character infamous among my fellow citizens, was manufactured at a certain lawyer's office in the town, printed at the office of the 'Sangamon Journal,' and found its way into the world some time between two days *just before the last election*." Now turn to Mr. Keys's affidavit in which you will find the following, (viz) "I certify that some time in May or the early part of June, 1837, I saw at Williams's corner, a paper purporting to be an assignment

from Joseph Anderson to James Adams, which assignment was signed by a mark to Anderson's name, etc." Now mark, if Keys saw the assignment on the last of May or first of June, Gen. Adams tells a falsehood when he says it was manufactured *just before the election*, which was on the 7th of August; and if it was manufactured just before the election, Keys tells a falsehood when he says he saw it on the last of May or first of June. Either Keys or the General are irretrievably in for it; and in the General's very condescending language, I say "let them settle it between them."

Now again, let the reader, bearing in mind that General Adams has unequivocally said, in part of his address, that the charge in relation to the assignment was *manufactured just before the election*, turn to the affidavit of Peter S. Weber, where the following will be found, (viz) "I, Peter S. Weber, do certify that from the best of my recollection, on the day or day after Gen. Adams started for the Illinois Rapids, in May last, that I was at the house of Gen.

Adams, sitting in the kitchen, situated on the back part of the house, it being in the afternoon, and that Benjamin Talbott came around the house, back into the kitchen, and appeared wild and confused, and that he laid a package of papers on the kitchen table and requested that they should be handed to Lucien. He made no apology for coming to the kitchen, nor for not handing them to Lucien himself, but showed the token of being frightened and confused both in demeanor and speech and for what cause I could not apprehend."

Commenting on Weber's affidavit, Gen. Adams asks, "Why this fright and confusion?" I reply that is a question for the General himself. Weber says that it was in May, and if so, it is most clear that Talbott was not frightened on account of the assignment, unless the General lies when he says the assignment charge was manufactured *just before the election.* Is it not a strong evidence that the General is not traveling with the pole-star of truth in his front, to see him in one part of his address

roundly asserting that the assignment was manufactured *just before the election*, and then, forgetting that position, procuring Weber's foolish affidavit, to prove that Talbott had been engaged in manufacturing it *two months before?*

In another part of his address Gen. Adams says, "That I hold an assignment of said judgment, dated the 20th of May, 1828, and signed by said Anderson, I have never pretended to deny or conceal, but stated that fact in one of my circulars previous to the election, and also in an answer to *a bill in chancery*." Now I pronounce this statement unqualifiedly false, and shall not rely on the oath or word of any man to sustain me in what I say; but will let the whole be decided by reference to the circular and answer in chancery of which the General speaks. In his circular he did speak of an assignment; but he *did not* say it bore date 20th of May, 1828; nor did he say it bore any date. In his answer in chancery, he did say that he had an assignment; but he

did not say it bore date the 20th of May, 1828; but so far from it he said on oath (for he swore to the answer) that as well as he recollected, he obtained it in 1827. If any one doubts, let him examine the circular and answer himself. They are both accessible.

It will readily be observed that the principal part of Adams's defense rests upon the argument that, if he had been base enough to forge an assignment, he would not have been *fool enough* to forge one that did not cover the case. This argument he used in his circular before the election. The "Republican" has used it at least once, since then; and Adams uses it again in his publication of to-day. Now I pledge myself to show that he is just such a *fool* that he and his friends have contended it was impossible for him to be. Recollect — he says he has a genuine assignment; and that he got Joseph Klein's affidavit, stating that he had seen it, and that he believed the signature to have been executed by the same hand that signed Anderson's name to the answer in

chancery. Luckily Klein took a copy of this *genuine* assignment, which I have been permitted to see, and hence I know *it does not cover the case*. In the first place it is headed "Joseph Anderson vs. Joseph Miller," and heads off, "Judgment in Sangamon Circuit Court." Now mark, there never was a case in Sangamon Circuit Court entitled Joseph Anderson vs. Joseph Miller. The case mentioned in my former publication, and the only one between these parties that ever existed in the Circuit Court was entitled Joseph Miller vs. Joseph Anderson, Miller being the plaintiff. What then becomes of their sophistry about Adams not being *fool enough* to forge an assignment that would not cover the case? It is certain that the present one does not cover the case; and if he got it honestly, it is still clear that he was *fool enough* to pay for an assignment that does not cover the case.

The General asks for the proof of disinterested witnesses. Who does he consider disinterested? None can be more so than those who

have already testified against him. No one of them had the least interest on earth, so far as I can learn, to injure him. True, he says they had conspired against him; but if the testimony of an angel from Heaven were introduced against him, he would make the same charge of conspiracy. And now I put the question to every reflecting man, do you believe that Benjamin Talbott, Chas. R. Matheny, William Butler and Stephen T. Logan, all sustaining high and spotless characters, and justly proud of them, would deliberately perjure themselves, without any motive whatever, except to injure a man's election; and that, too, a man who had been a candidate time out of mind and yet who had never been elected to any office?

Adams's assurance, in demanding disinterested testimony, is surpassing. He brings in the affidavit of his own son, and even of Peter S. Weber, with whom I am not acquainted, but who, I suppose, is some black or mulatto boy, from his being kept in the kitchen, to

prove his points; but when such a man as Talbott, a man who, but two years ago, run against Gen. Adams for the office of Recorder and beat him more than four votes to one, is introduced against him, he asks the community, with all the consequence of a lord, to reject his testimony. . . .

In conclusion I will only say that I have a character to defend as well as Gen. Adams, but I disdain to *whine* about it as he does. It is true I have no children nor *kitchen boys;* and if I had, I should scorn to lug them in to make affidavits for me.

September 6, 1837.

A. Lincoln

Five or six weeks after this communication, General Adams published a lengthy statement in reply and, the argument having evidently waxed exceedingly warm, Lincoln made a concluding response which appears in the "Sangamon Journal" of October 28, 1837, as follows:

Such is the turn which things have lately taken, that when Gen. Adams writes a book, I am expected to write a commentary on it. In the "Republican" of this morning he has presented the world with a new work of six columns in length; in consequence of which I must beg the room of one column in the "Journal." It is obvious that a minute reply cannot be made in one column to everything that can be said in six; and consequently, I hope that expectation will be answered, if I reply to such parts of the General's publication as are worth replying to.

It may not be improper to remind the reader that in his publication of Sept. 6th, General Adams said that the assignment charge was manufactured *just before the election;* and that in reply I proved that statement to be false by Keys, his own witness. Now, without attempting to explain, he furnishes me with another witness (Tinsley) by which the same thing is proved, to wit, that the assignment *was not* manufactured *just before the election;* but that it was *some*

weeks before. Let it be borne in mind that Adams made this statement—has himself furnished two witnesses to prove its falsehood, and does not attempt to deny or explain it. Before going farther, let a pin be stuck here, labeled "one lie proved and confessed." On the 6th of September he said he had before stated in the hand-bill that he held an assignment dated May 20th, 1828, which in reply I pronounced to be false, and referred to the hand-bill for the truth of what I said. This week he forgets to make any explanation of this. Let another pin be stuck here, labeled as before. I mention these things, because, if when I convict him in one falsehood, he is permitted to shift his ground and pass it by in silence, there can be no end to this controversy.

The first thing that attracts my attention in the General's present production, is the information he is pleased to give to "Those who are made to suffer at his (my) *hands*."

Under present circumstances, this cannot apply to me, for I am not a *widow* nor an

orphan; nor have I a wife or children who might by possibility become such. Such, however, I have no doubt, have been and will again be made to suffer at his *hands!! Hands!* Yes, they are the mischievous agents. The next thing I shall notice is his favorite expression, "not of lawyers, doctors and others," which he is fond of applying to all who dare expose his rascality. Now, let it be remembered that when he first came to this country he attempted to impose himself upon the community as a *lawyer*, and actually carried the attempt so far, as to induce a man who was under a charge of murder to entrust the defense of his life in his hands, and finally took his money and got him hanged. Is this the man who is to raise a breeze in his favor by abusing lawyers? If he is not himself a lawyer, it is for the lack of sense, and not of inclination. If he is not a lawyer, he *is* a liar for he proclaimed himself a lawyer, and got a man hanged by depending on him. . . .

Adams speaks with much apparent confi-

dence of his success attending lawsuits, and the ultimate maintenance of his title to the land in question. Without wishing to disturb the pleasure of his dream, I would say to him that it is not impossible that he may yet be taught to sing a different song in relation to the matter.

At the end of Miller's deposition, Adams asks, "Will Mr. Lincoln *now* say that he is almost convinced my title to this ten acre tract of land is founded on fraud?" I answer, I will not. I will *now* change the phraseology so as to make it run — I am *quite* convinced, &c. I cannot pass in silence Adams's assertion that he has proved that the forged assignment was not in the deed when it came from his house by *Talbott*, the Recorder. In this, although Talbott has sworn that the assignment was in the bundle of deeds when it came from his house, Adams has the unaccountable assurance to say that he has proved the contrary by Talbott. Let him or his friends attempt to show, wherein he proved any such thing by Talbott.

In his publication of the 6th of September

he *hinted* to Talbott that *he might be mistaken.* In his present, speaking of Talbott and me, he says, "*They may have been imposed upon.*" Can any man of the least penetration fail to see the object of this? After he has stormed and raged till he hopes and imagines he has got us a little scared, he wishes to softly whisper in our ears, "If you'll quit, I will." If he could get us to say, that some unknown, undefined being had slipped the assignment into our hands without our knowledge, not a doubt remains but that he would immediately discover that we were the purest men on earth. This is the ground he evidently wishes us to understand he is willing to compromise upon. But we ask no such charity at his hands. We are neither *mistaken* nor *imposed upon.* We have made the statements we have, because we know them to be true and we choose to live or die by them.

Esquire Carter, who is Adams's friend, personal and political, will recollect that, on the 5th of this month, he (Adams), with great

affectation of modesty, declared that he would never introduce his own child as a witness; and as if to show with how much contempt he could treat his own declaration, he has had this same Esquire Carter to administer the oath to him. And so important a witness does he consider him, and so entirely does the whole of his entire present production depend upon the testimony of his child, that in it he has mentioned "My son," "My son Lucian," "Lucian, my son," and the like expressions no less than fifteen different times. Let it be remembered here, that I have shown the affidavit of "my darling son Lucian," to be false by the evidence apparent on its own face; and I now ask if that affidavit be taken away what foundation will the fabric have left to stand upon? . . .

Farewell, General. I will see you again at Court, if not before—when and where we will settle the question whether you or the widow shall have the land.

A. Lincoln

October 18, 1837

Lincoln the Litigant

Lincoln was only twenty-eight years old at the time of this controversy with General Adams, yet his genius for expression—for terse, accurate, and emphatic English—is apparent even in these hastily prepared newspaper articles. In them one finds the subtle irony, the withering sarcasm, that, though rarely employed, never failed to drive an opponent to cover, in the years to come, on the old Eighth Circuit or on the political hustings; the deadly dilemma that trapped the agile Douglas in the famous debates twenty years later; the keen analysis and convincing logic of his celebrated Cooper Institute address at New York which placed him on the threshold of the Presidency.

These communications in the "Sangamon Journal" also contain the strongest language Lincoln ever used toward an adversary. There is nothing that he ever said or wrote, now on record or known to exist, that compares in severity with this terrific arraignment. They indicate the depth to which Lincoln's young heart was stirred by the fraud Adams was at-

tempting to perpetrate upon the helpless family of a dead client. That Lincoln, however, did not seek such encounters, but on the other hand was somewhat chagrined by them, is evident from the letter which he wrote after another incident of this kind:

LAURENCEVILLE, *October* 31, 1840

W. G. ANDERSON,

DEAR SIR:

Your note of yesterday is received. In the difficulty between us of which you speak, you say you think I was the aggressor. I do not think I was. You say my "words imported insult." I meant them as a fair set-off to your own statements, and not otherwise; and in that light alone I now wish you to understand them. You ask for my present "feelings on the subject." I entertain no unkind feelings to you, and none of any sort upon the subject, except a sincere regret that I permitted myself to get into such an altercation.

Yours, etc.

A. LINCOLN

Lincoln the Litigant

It will be recalled that Lincoln closed his last public statement in the forgery controversy with a reminder to General Adams that he would see him "again in Court." In fact, the original records now in the Sangamon Circuit Court show that an action was then pending for the recovery of the land, the Bill of Complaint having been filed by Lincoln and his associates in June of the same year. The Bill alleges fraud and collusion between Joseph Miller and General Adams; that the land was worth not less than two thousand dollars, though Adams admitted that he had obtained the ten acres for the sum of thirty dollars; and, after stating that they were first informed of the condition of the title by a prospective purchaser, the Bill alleges as follows:

"Your orators further state that as soon as they were apprised of this fact they called upon said Adams at Springfield, but could obtain from him no satisfactory explanation, but on

the contrary, he made contradictory statements about the matter and manifested all the appearance of conscious guilt. They state that the land has now become very valuable and your orators are induced to believe from the above facts, as well as others, that the said Adams, actuated by his *love of filthy lucre*, has taken advantage of the orphan situation of your orators to cheat and defraud them out of the land aforesaid."

On July 5, 1837, Adams, who, at least part of the time, seems to have acted as his own attorney, filed his answer, containing the following allegations:

"It is true that one of the heirs of said Anderson, to wit, Richard, he thinks, but is not positive, did mention the matter of said claim to the Respondent in the street, but Respondent did not consider himself bound to confer on the subject with an irresponsible person, not being administrator, which was the

reason why he did not then explain the whole matter; but he verily believes he did not contradict himself as alleged in complainant's bill; such an allegation is wholly repugnant to that deliberation and cautious mode of speaking habitual to Respondent not calculated to involve a person in contradictions as a more hurried manner of speaking, not admitting due reflection, is more apt to produce. . . . Respondent most strenuously and vehemently denies all fraud, confederacy & inordinate love of Filthy Lucre with which he is charged in said Bill of Complaint."

On November 11, 1837, Lincoln took the deposition of Isaiah Stillman, who swore that in 1832, several years after the alleged assignment by Anderson to Adams, Joseph Anderson, learning that the witness was about to make a trip to Springfield, came to him and asked him to see General Adams and find out if Joseph Miller had paid him any money for Anderson, and, if so, to get it; that he did see

Adams and delivered the message, but that Adams said that he had collected no money for Anderson from any one. He stated further that in said conversation Adams said nothing about Anderson having already assigned to him the claim against Joseph Miller. On the following day, Lincoln took the deposition of Stephen Dewey, Clerk of the Fulton Circuit Court, who also contradicted the General on several important points. The record indicates that several other depositions were taken by the complainants, but they are now missing from the files.

General Adams seems to have contented himself with taking the deposition of his alleged confederate, Joseph Miller, on September 23, 1837. Miller was exceedingly vague in recollection, but managed to recall that, on one occasion, he had offered to pay Anderson the amount of his judgment, but that he had stated that the claim had been assigned to General Adams.

Evidently the respondent was not altogether

satisfied with the weight and character of his proof, because, on July 12, 1838, he filed his affidavit in support of a motion for a change of venue, stating that "he fears he cannot receive a fair trial of said cause in the First Judicial District of Illinois for the reason that he believes the Judge of said judicial district is prejudicial against him."

An agreed order was then entered, transferring the case to Schuyler County, but on Monday, September 6, 1841, Judge Stephen A. Douglas, Lincoln's lifelong rival—first in love and then in politics—remands the action "to the County of Sangamon from whence the venue originated for the reason that the Judge of the Fifth Judicial Circuit has been of counsel."

The last order in the case is as follows:

"November 29, 1843—This day came the Complainant and suggested the death of the defendant. It is therefore ordered that this suit abate."

The suit seems never to have been revived

against Adams's heirs, and, therefore, some settlement must have been made out of court satisfactory to Lincoln and his clients.

The last suit in which Lincoln was a defendant is undoubtedly the most vexatious experience of his legal career. Until the record was discovered by the author in January, 1922, among the time-stained archives of the Fayette Circuit Court at Lexington, Kentucky, and recently published by Houghton Mifflin Company under the title of "Abraham Lincoln, Defendant," the incident was wholly unknown and the statement by all Lincoln's biographers that his integrity had never been assailed by any person in any way was conceded beyond question. These papers, yellow with age, together with the letters written by Lincoln to his local counsel, which were also unearthed from an attic where they had lain forgotten for nearly seventy years, disclose a remarkable episode.

Lincoln's father-in-law, Robert S. Todd,

operated a large cotton factory for many years near Lexington, Kentucky, under the firm name of Oldham, Todd and Company. After his death in 1849, the business was continued in the name of the surviving partners, Oldham and Hemingway.

On May 12, 1853, just as the estate of Robert S. Todd had been finally settled and the amount due Lincoln and his wife paid over to George B. Kinkead, one of Kentucky's most celebrated lawyers, representing the Springfield heirs, Oldham and Hemingway filed suit in the Fayette Circuit Court against Lincoln, alleging that the firm during Todd's lifetime had sent Lincoln various claims, aggregating $472.54, to collect from Illinois customers of the cotton factory, and that he had collected the entire amount, which he had converted to his own use.

That this suit came like a bolt from the sky is indicated by Lincoln's first letter to his lawyer:

Lincoln the Litigant

DANVILLE, ILLS. *May* 27, 1853

GEORGE B. KINKEAD, ESQ.
Lexington, Ky.

I am here attending court a hundred and thirty miles from home, and where a copy of your letter of this month to Mr. Edwards, reached me from him, last evening. I find it difficult to suppress my indignation towards those who have got up this claim against me. I would really be glad to hear Mr. Hemingway explain how he was induced to *swear* he *believed* the claim to be just! I herewith inclose my answer. If it is insufficient either in substance, or in the authentication of the oath, return it to me at Springfield (where I shall be after about ten days) stating the defective points. You will perceive in my answer that I ask the Petitioners to be ruled to file a bill of particulars, stating *names* and *residences* &c. I do this to enable me to absolutely disprove the claim. I can really prove by independent evidence every material statement of my answer, and if they will name any living acces-

sible man, as one of whom I have received their money, I will *by that man* disprove the charge. I know it is for *them* to prove their claim rather than for *me* to disprove it; but I am unwilling to trust the oath of any man, who either *made* or *prompted* the oath to the Petition.

Write me soon.

Very Respectfully
A. Lincoln

On June 13, 1853, at the first day of Court, Lincoln's answer was filed. It was an emphatic denial of the plaintiffs' allegations. It stated that the only money he had ever collected for Robert S. Todd was fifty dollars on an old account in 1846, which his father-in-law had directed him to retain; that even this small gift had been disclosed in his answer to the recent suit settling Todd's estate and had been deducted from the portion of said estate due his wife and himself. "Respondent cares but little for said fifty dollars," said Lincoln in his

answer; "if it is his legal right he prefers retaining it, but he objects repaying it *once* to the estate of said Robert S. Todd and *again* to said firm or to said Petitioners; and he particularly objects to being compelled to pay money to said firm or said Petitioners which he never received at all. . . . With the exception of the fifty dollars aforesaid, received by Respondent under the circumstances aforesaid, Respondent denies that he ever received anything whatsoever, to which said firm or said Petitioners could have a pretense of a claim."

Under the pleadings, the burden of proof was on Oldham and Hemingway, and Lincoln waited impatiently for plaintiffs to sustain by evidence their assault on his honor. On July 6, 1853, he wrote Mr. Kinkead: "I feel some anxiety about the suit which has been gotten up against me in your Court. . . . I have said before, and now repeat, that if they will name the man or men of whom, they say, I have collected money for them, I will *disprove* it." On

September 13, 1853, the plaintiffs still making no move toward a trial, he wrote his lawyer again from Bloomington, where he was attending Court: "This matter harasses my feelings a good deal; and I shall be greatly obliged if you will write me immediately."

It is evident from the record of the settlement suit and Lincoln's correspondence that his brother-in-law, Levi Todd, who had fallen out with his sisters living in Springfield—Frances Wallace, Ann Smith, and Mary Lincoln—over certain advancements which he claimed his father had made to them, was the influence behind this suit. Lincoln writes Mr. Kinkead in one of his letters that he does not understand "Levi's statement (which I now suppose he is determined to make) that 'I told him I owed the amount attached.'"

At last the plaintiffs were compelled to file a statement containing the names of the persons whose accounts Lincoln was charged with having collected. When this was done, Lincoln promptly assumed the burden of proof

himself. By depositions taken at Shelbyville on November 8, 1853, at Springfield on November 12th, and at Beardstown on November 15th, Lincoln completely refuted every charge made by plaintiffs against him. This evidence was so conclusive that the plaintiffs themselves filed a motion on January 16, 1854, to dismiss the case, which was done at their cost on February 10, 1854, when the next term of court began.

The vindication of his own honor in this case found Lincoln on the threshold of political events that made him a national figure within a few short, but stirring, years. The repeal of the Missouri Compromise by the Kansas-Nebraska Bill aroused him out of his retirement from politics, and on October 16, 1854, he delivered his first great anti-slavery speech at Peoria. The next year he was a candidate for the United States Senate, but, after a deadlock in the Legislature, he lost the battle. On May 29, 1856, the Republican Party came into existence in convention at Bloom-

ington, and Lincoln, finally shaking off his Whig affiliations, delivered his celebrated "Lost Speech," which so held the attention of the audience that the reporters forgot to take it down. Then followed the famous debates with Douglas in 1858 and, two years later, the Presidency.

Came the afternoon of February 10, 1861. It was the last day of Lincoln's career as a lawyer. In a few more hours he was leaving Springfield to assume, as he said in his farewell remarks, "a task greater than that which rested upon Washington." William H. Herndon, his law partner since the days of poverty and obscurity, sat in the firm's dingy office on the second floor of a building on the west side of the public square, waiting for the senior partner.

Great events had never happened in surroundings more plain and unpretentious than these. The office consisted of a single room of medium size on the right at the rear of a hall. In the upper half of the door was a window

sash filled with small panes of glass, some of which were broken out. A large pine table, covered with green baize, occupied the center of the room, while to one side was a rusty wood-burning stove. A secretary with drawers below and pigeon-holes, stuffed with papers, above, stood in one corner. A large bookcase was in another corner. Four or five cane-bottomed chairs and an old lounge or sofa alongside the wall completed the meager equipment. From unwashed windows, grimy and dust-stained, the only view was over stable roofs, cluttered back yards, and unsightly ash heaps.

Presently Lincoln came in. The lines in his rugged face were deep with care and fatigue. All day long visitors had passed through the office which he now occupied at the State House, and it was not until the crowds had gone away that he was able to meet his partner in the old office for the last conference. For a little while the two men discussed various unfinished legal business and went hastily over the books of the firm. When all these

matters had been disposed of, Lincoln walked over to the opposite side of the room and threw himself down on the old lounge.

For a few moments he lay with his face toward the ceiling without speaking. These four walls held recollections of struggle, of bitter failure, of success, and ultimate triumph, never to be erased from the tablet of his memory. In this room he had prepared his briefs and pleadings and had talked with clients. Here he had pondered on the great problems of the day, which now, strangely enough, were about to be placed in his own hands for solution. On the old pine table had been written the "House-divided-against-itself" speech, the debates with Douglas, and the Cooper Institute Address. And on the dilapidated sofa, the day the "Little Giant" was elected to the Senate, he had lain there, defeated, despondent, and alone.

Then he began to talk of the early days of his practice, recalling with much enjoyment the humorous features of various lawsuits on

the Circuit. With his thoughts turned to other days before the responsibilities of the head of a nation had settled upon him, his reminiscences ran on until dusk crept through the little windows and he was reminded that it was time to go home. As he gathered a bundle of books and papers under his arm and started to go, he spoke of the old sign "Lincoln & Herndon" that swung on rusty hinges over the doorway at the foot of the steps. "Let it hang there undisturbed," he said, in a lowered voice; "give our clients to understand that the election of a President makes no change in the firm of Lincoln & Herndon. If I live, I'm coming back some time, and then we'll go right on practicing law as if nothing had ever happened." He lingered for a moment, as if to take a last look at the old quarters, then passed through the door into the hallway and down the narrow stairs.

His professional career was over. The old Eighth Circuit that he loved and clung to at parting would see him no more. The last en-

try had been made on the record of the senior partner as a lawyer and a private citizen. But that record had been written with such painstaking care and unswerving integrity, through poverty, disappointment, envy, misunderstanding, malice, and the heat of controversy, that when, more than sixty years later, another lawyer digs it out of the dusty files of many courts, there is no phase of his life more picturesque and illuminating than Lincoln the Litigant.